

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

MARY VAN BRUNT-PIEHLER,

*Plaintiff,*

*v.*

ABSOLUTE SOFTWARE, INC., ABSOLUTE  
SOFTWARE CORPORATION, GEOFF HAYDON,  
THOMAS KENNY, and TODD AWTRY,

*Defendants.*

AFFIRMATION OF JONATHAN W.  
FERRIS

Civil Action No.  
16-CV-6313-EAW-MWP

Jonathan W. Ferris, under penalty of perjury deposes and states:

1. I am an attorney with the law firm Thomas & Solomon LLP, and as which I am knowledgeable and familiar with the facts of this matter.

2. I submit this affirmation in support of Plaintiff's Motion for an Extension of both the deadline and page limit for Plaintiff's response to Defendants' Motion for Summary Judgment.

3. Pursuant to this Court's January 17, 2020 Text Order, Plaintiff's deadline to file a response to Defendants' Motion for Summary Judgment is currently set for February 14, 2020. *See* Dkt. No. 151.

4. Defendants filed their Motion for Summary Judgment on January 15, 2020. *See* Dkt. No. 141.

5. The January 15, 2020 date was stipulated to by the parties after the parties conferred on extending the dispositive motion deadline in September and October 2019. Ultimately, the parties agreed to the January 15, 2020 date on October 11, 2019. A copy of the October 11, 2019 email between counsel for Defendants and counsel for Plaintiff confirming this date is attached hereto as Exhibit A.

6. In other words, Plaintiff agreed to provide Defendants with over three months to draft their motion.

7. Defendants' Motion for Summary Judgment is extensive, consisting of a 50-page memorandum of law, 41 exhibits, numerous declarations, and in total is approximately 526 pages of material.

8. In order to adequately respond to Defendants' Motion for Summary Judgment, Plaintiff seeks an extension through March 31, 2020 to respond, as well as a 25-page extension of the page limit (in other words, making Plaintiff's page limit the same 50 total pages that Defendants were given).

9. Prior to bringing this motion, counsel for Plaintiff emailed counsel for Defendants on February 10, 2020 regarding this request. However, counsel for Defendants indicated that they would only consent to a two-week extension of Plaintiff's response time, which was conditioned on Defendants also receiving a one-week extension of their deadline to submit a reply brief. Defendants consented to Plaintiff's request to file a 50-page brief.

10. On February 11, 2020, I spoke with Defendants' counsel, Laura Lestrade, to further discuss Plaintiff's requested extension and that the two-week extension that Defendants proposed did not work for Plaintiff for a variety of reasons.

11. During this call, I also expressed my surprise that Defendants would not consent to Plaintiff's requested extension, especially since Plaintiff had previously agreed to provide Defendants with over three months in which to prepare and file their brief. In comparison, the instant extension sought by Plaintiff's counsel is only approximately six weeks (from February 14, 2020 to March 31, 2020). However, Ms. Lestrade indicated that Defendants' position had not changed from the previous day.

12. Plaintiff's requested extension through March 31, 2020 is necessary for several reasons.

13. First, as discussed above, given the volume of Defendants' submissions (which is double this District's page limits) and dozens of issues that will need to be addressed, Plaintiff requires substantial time and resources to adequately address all of these issues.

14. Second, the counsel representing Plaintiff, Mr. Thomas and myself, have long-scheduled vacations and other travel covering much of the remainder of this month. Additionally, Mr. Thomas and myself will certainly have other pressing business matters over the next six weeks.

15. Notably, travel was one of the reasons that counsel for Defendants sought a three-month extension of time in order to file their motion. *See Exhibit A*.

16. Therefore, as good cause exists, Plaintiff respectfully requests that the Court extend the time for Plaintiff to respond to Defendants' Motion for Summary Judgment until March 31, 2020 and extend the page limit for Plaintiff's response to 50 pages.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on February 12, 2020.

s/ Jonathan W. Ferris  
**Jonathan W. Ferris**